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FILED

2008 APR 11 PM 3:18

RICHARD W. WIEKING  
CLERK  
U.S. DISTRICT COURT  
NO. DIST. OF CA. S.J.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

7  
8 FELIX TORRES, JR.,

} Case No. C08-00857 JW  
9 } FIRST AMENDED COMPLAINT  
10 } FOR INJUNCTION AND  
11 } DECLARATORY RELIEF  
12 } JURY DEMAND

13 Plaintiff,

14 vs.

15 REGENTS OF THE UNIVERSITY OF,  
16 CALIFORNIA; UCSC ADA  
Compliance Officer Susan Willats,  
individually and in official capacity; and  
DOES 1-10, Inclusive.

17 Defendants

21  
22  
23 PLAINTIFF hereby submits his complaint and alleges as follows:  
24  
25

FIRST AMENDED COMPLAINT TORRES v UC REGENTS et al.

**JURISDICTION AND VENUE**

- 1       1. This matter arises under the Americans With Disabilities Act.
- 2       2. This Court has jurisdiction of this case pursuant is 28 USC Section 1331, for
- 3       violation of Title II of the Americans With Disabilities Act, 42 U.S.C. 12101, *et*
- 4       *seq.*
- 5       3. The claims made in this action arose within this judicial district. Venue is
- 6       proper in this judicial district pursuant to 28 USC 1391(b).

**PLAINTIFF:**

- 10      4. Currently Plaintiff is residing in Santa Cruz, California. Plaintiff is disabled as
- 11      defined under the 1990 American Disability Act with a neurological illness called
- 12      Myasthenia Gravis.
- 13      5. Since 2001, Plaintiff has been periodically traveling throughout California
- 14      engaging in research at the following UC Campuses, UC Berkeley, UC Santa Cruz,
- 15      UC Irvine and UC San Diego.

**DEFENDANTS:**

- 19      6. Regents of the University of California of California's The University of
- 20      California are governed by The Regents, a 26-member board, as established under
- 21      Article IX, Section 9 of the California Constitution. The University is governed by
- 22      The Regents, which under Article IX, Section 9 of the California Constitution has
- 23      "full powers of organization and governance" subject only to very specific areas of
- 24
- 25

1 legislative control. The Regents control and are responsible for all UC Campus  
2 one of which is the University of California, at Santa Cruz.

3  
4 7. UCSC ADA Compliance Officer Susan Willats is a current employee of the  
5 UCSC Campus and administers UCSC ADA requirements and currently approves  
6 or disapproves reasonable accommodations for disabled individual's e.g.  
7 individual dogs on campus to assist their owners.

8  
9 8. UCSC is the only UC Campus that has a UC Dogs Prohibited on Campus Code  
10 55. Which states that it is unlawful for any person having ownership, custody, or  
11 control of any dog to cause, suffer or permit such dog to be on the campus of the  
12 University of California at Santa Cruz, whether with or without a leash. "Campus"  
13 includes all land owned by the University of California at Santa Cruz including the  
14 Long Marine Lab, parking lots, grounds, buildings, and all developed and  
15 undeveloped lands of the University of California. This section shall not apply to  
16 any of the following:

- 17  
18 (a) Dogs which assist persons with disabilities  
19  
20 (b) Dogs which are utilized for campus security  
21  
22 (c) Laboratory animals used in education and research  
23  
24 (d) Dogs housed in staff or faculty owned residences, or Chancellor or Provost  
25 housing (the "Non-Research Animals on Campus" policy shall regulate these pets).

## FACTS OF THE CASE

1  
2 9. On or about May 27, 2007, Plaintiff was on the UCSC Campus engaged in  
3 research via the internet and using the UCSC Library. Plaintiff was parked in a  
4 Handicap Parking space exhibiting his California issue Handicap Parking Sticker.

5  
6 10. Plaintiff has been using the UCSC Library facilities off and on since 2003.

7 Plaintiff also has a small dog that assists him in navigating the terrain of the  
8 campus e.g. steep rolling hills. Plaintiff was been afflicted with Myasthenia Gravis  
9 a serious neurological illness since 1969.

10  
11 11. Prior to May 27, 2007, Plaintiff sought and received permission from UCSC  
12 Animal Control Officer Jen Holz to have his dog on campus due to his disability.

13  
14 12. After terminating his use of the UCSC Library, Plaintiff returned to his car and  
15 was removing some cardboard from the back seat of his car that Cookie (his dog)  
16 had soiled. USCS Police Officer G. McConnell witnessed the above and cited  
17 Plaintiff for violation of UC Ordinance 55.

18  
19 13. Plaintiff explained to Officer McConnell that Plaintiff had prior permission to  
20 have Cookie on campus. Officer McConnell merely laughed and stated that  
21 Plaintiff wasn't really disabled. Officer McConnell's behavior can best be  
22 described as not only unprofessional but arrogant.

1       14. In early June 2007, Animal Control Officer Holz when contacted by Plaintiff  
2 could not remember Plaintiff and indicated that a new procedure was in placed and  
3 that Plaintiff needed to contact ADA Compliance Officer Defendant Willats.

4       15. Weeks prior to the September 18, 2007 Court hearing on the citation, Plaintiff  
5 sought and received permission from defendant UCSC ADA Compliance Officer  
6 Susan Willats to have Cookie on campus based on his disability.  
7

8       16. Defendant Willats assured Plaintiff that she would contact Officer Holz and  
9 inform her of Plaintiff's permission and to notify all Campus Police of such  
10 permission. According to defendant Willats an email was sent that day to Officer  
11 Hotz.  
12

13       17. At the September 18, 2007 hearing, under penalty of perjury Officer  
14 McConnell stated that Plaintiff had no such permission. The Court gave Plaintiff a  
15 day i.e. September 19, 2007, to confirm his permission to have Cookie on campus  
16 via a letter from defendant Susan Willats. Unknown to Plaintiff, defendant Willats  
17 was on vacation and would not return until September 24, 2007. Plaintiff was  
18 convicted on the violation of UC Ordinance 55 and paid a fine of \$93.00.  
19

20       18. On September 24, 2007, Plaintiff inquired of defendant Susan Willats why UC  
21 Campus Police were still unaware of his permission. Defendant Willats stated that  
22 permission was granted but now was being revoked. That an email was sent  
23  
24

1 regarding the permission but the point was moot now that Plaintiff's permission  
2 was being revoked.

3 19. Subsequently, plaintiff informed the Chief of Police of USCS via a formal  
4 complaint of Officer McConnell's behavior on the day of the citation and the day  
5 of the Court hearing. Plaintiff also formally complained regarding Officer Holz's  
6 failure to communicated Plaintiff permission granted by defendant Willats to all  
7 UCSC Campus Police Officers prior to September 18, 2007.

8 20. As of this day, no formal response has been forthcoming from USCS Police  
9 Department regarding Plaintiff's complaint.  
10

#### 12 **CAUSE OF ACTION RE ADA RIGHTS**

13 21. Plaintiff incorporates Paragraphs 1-20, as set above and incorporates them by  
14 reference.  
15

16 22. Plaintiff alleges that the defendants have violated the ADA in that it prohibits  
17 discrimination on the basis of disability in public accommodations i.e. having his  
18 dog Cookie on USCS campus.  
19

20 23. Plaintiff alleges that he an individual with a disability as defined by the ADA  
21 is a person who has a physical or mental impairment that substantially limits one or  
22 more major life activities, a person who has a history or record of such impairment,  
23 or a person who is perceived by others as having such impairment.  
24  
25

1       24. Plaintiff alleges that ADA Title II covers all activities of State and local  
2 governments regardless of the government entity's size or receipt of Federal  
3 funding. Title II requires that State and local governments give people with  
4 disabilities an equal opportunity to benefit from all of their programs, services, and  
5 activities (e.g. public services such as use of UC Libraries).

6  
7       25. As a direct and proximate result of the actions of the defendants as set forth  
8 above, plaintiff suffered pain, discomfort, disability, mental and emotion anguish  
9 and fear.

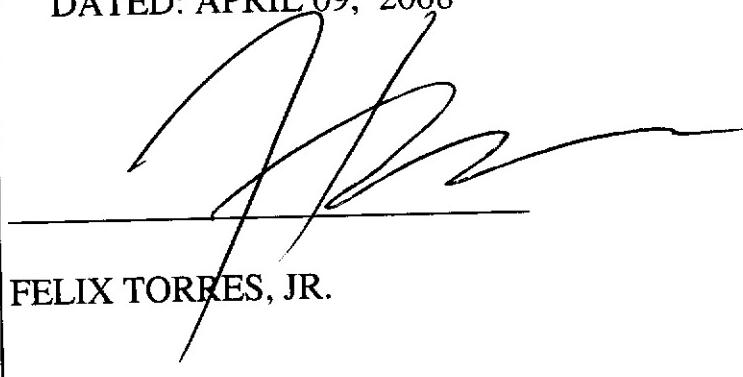
10  
11      27. Plaintiff requests that this court issue a temporary and permanent injunction  
12 against the defendants from engaging in the above mentioned scheme and declare  
13 that such acts are in violation of the ADA.

14           WHEREFORE:

- 15      1. Plaintiff requests a jury pursuant to Federal Rules of Civil Procedure 38;  
16  
17      2. Prospective declaratory relief; e.g. (1) entering a judgment pursuant to 28  
18 USC section 2201 declaring the above cited UC 55 Code as violating the ADA,  
19 and further declaring the code, inapplicable by its own terms to Plaintiff.  
20  
21      (2). Enter an Order Pursuant to 28 USC section 2202 based on the entry of the  
22 declaratory judgment requested in paragraph (2) above, prohibiting defendants  
23 from enforcing the provisions of this code, against Plaintiff.

3. A temporary and permanent injunction against defendants enforcing this code,  
1  
against Plaintiff and/or acting, directly or indirectly, in their official capacities to  
2  
harass or retaliate against plaintiff for his challenge to the code or for any other  
3  
reason.;
- 4  
5. Enter a judgment, in an amount to be proved at trial, in favor of Plaintiff and  
6  
against individuals acting as state agents in their official and individual capacities;  
7  
on account of damages sustained by plaintiffs, plus attorneys' fees, interest and  
8  
costs of this actions;
- 9  
10. Compensatory damages in the amount proven at trial;
- 11  
12. Punitive damages against ADA Compliance Officer Willats
- 13  
14. Attorneys Fees pursuant to 42 USC section 1988
- 15  
16. And such other and further relief as the court deems just and proper.

DATED: APRIL 09, 2008



FELIX TORRES, JR.

1 CASE NO. C08-00857 JW

2 PROOF OF MAIL SERVICE

3 I, FELIX TORRES, JR. am over 18 years if age and a party to the within above  
4 entitled action, that I am a resident of SANTA CRUZ, CALIFORNIA and the  
5 CITY OF SANTA CRUZ, CALIFORNIA.

6 Pursuant FRAP 25 C (1) (b) in the ordinary course of business practice, on APRIL  
7 9, 2008, by US mail and EMAIL, I personally mailed in a fully prepaid envelope a  
8 copy of

9 **PLAINTIFF'S FIRST AMENDED COMPLAINT**

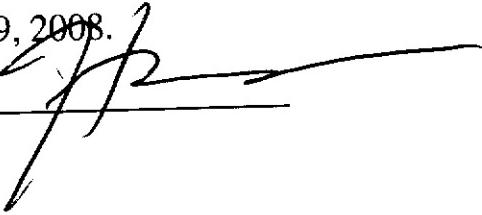
10 To:

11 Michael A. Laurenson  
12 Partner  
13 275 Battery Street, Suite 2000  
San Francisco, CA 94111  
email: [mlaurenson@gordonrees.com](mailto:mlaurenson@gordonrees.com)

14 I am familiar with the practice of collection and processing correspondence for  
15 mailing with the United States Postal Service and, in the ordinary course of  
16 business, the correspondence would be deposited with the U.S. Postal Service on  
17 the day on which it is collected at that business.

18 I declare under penalty of perjury under the laws of the State of California at the  
19 foregoing is true and correct. Executed at LAGUNA HILLS, CA this day of

20 APRIL 9, 2008.

21   
22  
23 008-00857 JW

24 CASE NO. ~~008-00857~~